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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,919	04/11/2002	Wilhelm Wazel	825-160	6405

7590

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EXAMINER

NGO, LIEN M

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 08/06/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/031,919

Applicant(s)

WAZEL ET AL.

Examiner

LIEN TM NGO

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5. 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because the language "The invention relates to" should not be included in the abstract. Correction is required. See MPEP § 608.01(b).
2. The disclosure is objected to because of the following informalities: in page 2, beginning a line 23, the claim should not be mentioned in the specification, for example: "as described in the claims" and "defined in the depending claim".

Appropriate correction is required.

Claim Objections

3. Claim 1 is objected to because of the following informalities: in line 5 of claim 1, "which" should be --the cap envelope--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1, lines 6-10, it is confusing and cannot be determined how a closure membrane is supported by a spacer that can rest on the membrane.

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In claim 3, it cannot be determined what is "at a height axially downward to a height".

The dependent claims not specifically mentioned are rejected as being depend upon a rejected base claims since they inherently contain the same deficiencies therein.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Moore (5,667,089).

In regard to claim 1, as best understood, Moore disclose in figs. 2 and 3, a plastic screw cap for a bottle comprising a cap bottom 46, a cylindrical cap envelope 68, a closure membrane 30, a spacer 72, a sealing lip 58 formed radially outwards of the spacer and concentric thereto, and wherein the cap bottom comprises a reduced region 64 lateral to a root of the sealing lip and defining a groove 64 that is capable of temporarily receiving a part of the closure membrane when a pressure within the bottle is increased.

In regard to claim 2, one of the teeth 72 can be considered as a sealing lip, and therefore, regions of reduced thickness are formed bilaterally of the root of the sealing lip.

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In regard to 3, the sealing lip 58 protrudes beyond a peak of the spacer.

In regard to claims 4 and 5, the sealing lip 58 defines an inner side face with a circumferential step having a same height as the spacer peak.

In regard to claims 6 and 7, more than one spacer 72 and groove are formed.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of Racine et al. (6,581,793).

Moore does not disclose the closure membrane having a greater thickness in a zone wherein it is contacted by the bottleneck.

Racine teaches, in fig. 5, a closure membrane having a greater thickness in a zone that it is contacted by the bottleneck.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the Moore closure membrane having a greater thickness in a zone that it is contacted by the bottle neck, as taught by Racine et al., in order to provide more sealing contact surface when the cap is in the closed position with the bottle.

10. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of Bosl et al. (6,502,710).

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Moore does not disclose the sealing lip formed by plurality of segments.

Bosl et al. teach sealing lip formed by plurality of segments.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the Moore sealing lip formed by plurality of segments, as taught by Bosl et al., in order to provide more flexibility for the sealing lip.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ochs (5,031,787) teaches a closure membrane having a greater thickness in a zone that it is contacted by the bottle neck.

Shull (4,531,649) teach a closure cap having a sealing lip and spacers.

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 703-305-0294. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LEE YOUNG can be reached on 703-308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3579 for regular communications and 703-305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.



Lien Ngo
August 1, 2003